

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
 Plaintiff,
 v.
 JUSTIN LEE TRIPP,
 Defendant.

Case No.: 2:19-mj-00394-NJK

Order

(Docket No. 5)

Pending before the Court is the United States' motion to strike. Docket No. 5. On November 15, 2019, Defendant Justin Lee Tripp filed a motion to compel interstate agreement on detainers, habeas corpus, dismissal and/or relief from the Court for failure to prosecute timely. Docket No. 4. Any response to the motion was therefore due no later than November 29, 2019. *Id.* The United States failed to respond to Defendant's motion by that date. *See* Docket.

Instead, on December 6, 2019, one week after the deadline to respond to Defendant's motion expired, the United States filed the instant motion to strike Defendant's motion. Docket No. 5. The United States asks the Court to strike Defendant's motion because he is represented by counsel on the instant complaint.¹ *Id.* at 1. Local Rule IA 11-6(a) provides that "once an attorney makes an appearance on behalf of a party, that party may not personally file a document with the court..." The Court's Docket, however, reflects no appearance of counsel. *See* Docket.

On December 9, 2019, the Court ordered counsel for the United States to show cause why the Court should not grant Defendant's motion as unopposed. Docket No. 6 at 2. The court further

¹ The United States, without referencing its failure to timely respond to Defendant's motion, alternatively asks the Court for an additional 14 days to respond to the motion if the Court denies its motion to strike. *Id.* at 4.

1 ordered the United States to show cause as to how the instant motion to strike was appropriately
2 filed. *Id.*

3 The United States has now responded to the Court's order. Docket No. 8. The United
4 States details in its response its efforts to have Defendant brought into this District to face his
5 charges. *Id.* at 2-5. The United States submits that its counsel inadvertently missed the response
6 deadline. *Id.* at 6. The United States further submits that its basis for the motion to strike was
7 incorrect and that LR 11-6(a) did not apply at the time Defendant filed his motion; however, the
8 United States had been communicating with his attorney and "mistakenly did not think to check"
9 if Defendant's attorney had filed her notice of appearance in the instant case. *Id.* Finally, counsel
10 for the United States submits that she will diligently work not to repeat this sort of mistake in the
11 future and asks the Court for a reasonable period of time to respond to Defendant's motion. *Id.*

12 While the Court has concerns, the Court accepts counsel for the United States' explanation
13 regarding her failure to timely respond to Defendant's motion and her inaccurate filing, as well as
14 her promise that this type of issue will not occur again. Accordingly, the Court **DISCHARGES**
15 the order to show cause. Docket No. 6. Further, the Court **DENIES** the United States' request to
16 strike Defendant's motion. Docket No. 5. The United States shall respond to Defendant's motion
17 at Docket No. 4 no later than December 17, 2019. Counsel for Defendant may reply to the United
18 States' response no later than December 19, 2019.

19 IT IS SO ORDERED.

20 DATED: December 12, 2019.

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NANCY J. KOPPE
UNITED STATES MAGISTRATE JUDGE